

ANN MILLER RAVEL, County Counsel (S.B. #62139)
ARYN PAIGE HARRIS, Deputy County Counsel (S.B. #208590)
OFFICE OF THE COUNTY COUNSEL
70 West Hedding, East Wing, 9th Floor
San Jose, California 95110-1770
Telephone: (408) 299-5900
Facsimile: (408) 292-7240

Attorneys for Defendant
COUNTY OF SANTA CLARA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAILA BATTIS,
Plaintiff,
v.
COUNTY OF SANTA CLARA, and
Does 1 through 20,
Defendants.) NO. C08-00286 PVT
)
) DEFENDANT COUNTY OF SANTA
) CLARA'S ANSWER TO PLAINTIFF'S
) COMPLAINT
)
) [JURY TRIAL DEMANDED]
)

Defendant County of Santa Clara (hereafter “County”) answers the Complaint (hereafter “Complaint”) of Laila Batts and admits, denies, and alleges with respect to the material facts in the Complaint as follows:

1. In response to paragraph 1 of the Complaint, the County lacks sufficient knowledge or information to either admit or deny the allegations and on that basis denies those allegations.

2. In response to paragraph 2 of the Complaint, the County alleges that this paragraph contains legal arguments not material allegations and, therefore, there is nothing to admit or deny. The County admits that subject matter jurisdiction is proper.

3. In response to paragraph 3 of the Complaint, the County lacks sufficient knowledge or information to admit or deny this allegation and on that basis denies the

1 allegation.

2 4. In response to paragraph 4 of the Complaint, the County admits that it is a public
3 entity within this district that operates the Elmwood Correctional Facility. The County denies
4 that the Elmwood Correctional Facility is a "Milpitas entity." The County lacks sufficient
5 knowledge or information to either admit or deny the remaining allegations and on that basis
6 denies those allegations.

7 5. In response to paragraph 5 of the Complaint, the County lacks sufficient
8 knowledge or information to either admit or deny these allegations and on that basis denies
9 those allegations.

10 6. In response to paragraph 6 of the Complaint, the County lacks sufficient
11 knowledge or information to either admit or deny these allegations and on that basis denies
12 those allegations.

13 7. In response to paragraph 7 of the Complaint, the County admits that Plaintiff was
14 incarcerated in the Elmwood Women's Facility January 5 through 14, 2007. The County admits
15 that Plaintiff had a positive pregnancy test during that period of incarceration. The County
16 lacks sufficient knowledge, information, or expertise to either admit or deny the remaining
17 allegations and on that basis denies those allegations.

18 8. In response to paragraph 8 of the Complaint, the County admits that Plaintiff
19 reported cramping and blood spotting during her incarceration. The County lacks sufficient
20 knowledge and information to either admit or deny the remaining allegations and on that basis
21 denies those allegations.

22 9. In response to paragraph 9 of the Complaint, the County lacks sufficient
23 knowledge and information to either admit or deny these allegations and on that basis denies
24 those allegations.

25 10. In response to paragraph 10 of the Complaint, the County lacks sufficient
26 knowledge and information to either admit or deny these allegations and on that basis denies
27 those allegations.

28 11. In response to paragraph 11 of the Complaint, the County lacks sufficient

1 knowledge and information to either admit or deny these allegations and on that basis denies
2 those allegations.

3 12. In response to paragraph 12 of the Complaint, the County denies that it has a
4 duty to take reasonable action and summon and provide necessary medical care (Government
5 Code section 845.6). The County lacks sufficient knowledge and information to either admit or
6 deny the remaining allegations and on that basis denies those allegations.

7 13. In response to paragraph 13 of the Complaint, the County lacks sufficient
8 knowledge and information to either admit or deny these allegations and on that basis denies
9 those allegations.

10 14. In response to paragraph 14 of the Complaint, the County lacks sufficient
11 knowledge and information to either admit or deny these allegations and on that basis denies
12 those allegations.

13 15. In response to paragraph 15 of the Complaint, the County lacks sufficient
14 knowledge and information to either admit or deny these allegations and on that basis denies
15 those allegations.

16 16. There is no paragraph 16 of the Complaint.

17 17. In response to paragraph 17 of the Complaint, the County lacks sufficient
18 knowledge and information to either admit or deny these allegations and on that basis denies
19 those allegations.

20 18. In response to paragraph 18 of the Complaint, the County lacks sufficient
21 knowledge and information to either admit or deny these allegations and on that basis denies
22 those allegations.

23 19. In response to paragraph 19 of the Complaint, the County admits that Plaintiff
24 filed a claims on June 19, 2007 and that the County denied the claim by letter on July 16, 2007.
25 The County lacks sufficient knowledge and information to either admit or deny the remaining
26 allegations and on that basis denies those allegations.

27 20. In response to paragraph 20 of the Complaint, the County alleges that this
28 paragraph contains legal arguments not material allegations and, therefore, there is nothing to

1 admit or deny. The County denies all allegations.

2 21. In response to paragraph 21 of the Complaint, the County incorporates all
3 admissions and denials in paragraphs 1 through 20 as fully set forth herein.

4 22. In response to paragraph 22 of the Complaint, the County alleges that this
5 paragraph contains legal arguments not material allegations and, therefore, there is nothing to
6 admit or deny. The County denies all allegations.

7 23. In response to paragraph 23 of the Complaint, the County alleges that this
8 paragraph contains legal arguments not material allegations and, therefore, there is nothing to
9 admit or deny. The County denies all allegations.

10 24. In response to paragraph 24 of the Complaint, the County lacks sufficient
11 knowledge and information to either admit or deny these allegations and on that basis denies
12 those allegations.

13 25. In response to paragraph 25 of the Complaint, the County incorporates all
14 admissions and denials in paragraphs 1 through 23 as though fully set forth herein.

15 26. In response to paragraph 26 of the Complaint, the County alleges that this
16 paragraph contains legal arguments not material allegations and, therefore, there is nothing to
17 admit or deny. The County denies all allegations.

18 27. In response to paragraph 27 of the Complaint, the County lacks sufficient
19 knowledge and information to either admit or deny these allegations and on that basis denies
20 those allegations.

21 28. In response to paragraph 28 of the Complaint, the County incorporates all
22 admissions and denials in paragraphs 1 through 23 as though fully set forth herein.

23 29. There is no paragraph 29 in the Complaint.

24 30. In response to paragraph 30 of the Complaint, the County lacks sufficient
25 knowledge and information to either admit or deny these allegations and on that basis denies
26 those allegations.

27 31. In response to paragraph 31 of the Complaint, the County alleges that this
28 paragraph contains legal arguments not material allegations and, therefore, there is nothing to

admit or deny. The County denies all allegations.

32. In response to paragraph 32 of the Complaint, the County lacks sufficient knowledge and information to either admit or deny these allegations and on that basis denies those allegations.

33. In response to paragraphs 1 through 5 of the Prayer, the County alleges that this paragraph contains legal arguments not material allegations and, therefore, there is nothing to admit or deny. The County denies all allegations.

AFFIRMATIVE DEFENSES

FIRST AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that the complaint, and each and every cause of action and/or claim for relief thereof, fails to state facts sufficient to constitute a cause of action and/or claim for relief against Defendant.

SECOND AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff was careless and negligent in and about the matters alleged in the complaint, and that said carelessness and negligence on the Plaintiff's own part proximately contributed to the damages complained of, if any there were. Under the doctrine of comparative negligence, Plaintiff's comparative negligence shall reduce any and all damages sustained by said Plaintiff.

THIRD AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that said damages, if any, sustained by Plaintiff were either fully or in part the fault of others, whether that fault be the proximate result of negligence, strict liability, breach of warranty, breach of contract, or any other type of fault caused by persons, firms, corporations or entities other than Defendant, and that said negligence or fault comparatively reduces the percentage of fault or negligence, if any, by Defendant.

FOURTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff was actively negligent in and about the matters alleged in the complaint, and thereby barred from any recovery.

FIFTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that the provisions of the "Fair Responsibility Act of 1986" (commonly known as Proposition 51, Civil Code Sections 1430, 1431, 1431.1, 1431.2, 1431.3, 1431.4, 1431.5 and 1432) are applicable to this action to the extent Plaintiff's injuries and/or damages, if any there were or are, were proximately caused or contributed to by the carelessness, negligence or fault of persons or entities other than Defendant.

SIXTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff failed to mitigate his damages.

SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that all of the risks, hazards and dangers, if any, inherent in the course of evaluation, treatment and/or administration of medications or other materials or substances to Plaintiff were fully known, appreciated and understood by Plaintiff, who nevertheless freely and voluntarily elected to assume and undertake such risks, hazards and dangers, if any, and thereby voluntarily assumed the risk of possible injury and/or other damages, and therefore Plaintiff is barred from any recovery that she might otherwise have against any Defendant.

EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every

cause of action and/or claim for relief thereof, Defendant alleges that at all times mentioned in the complaint, the services rendered by Defendant were reasonable and necessary for the care and treatment of Plaintiff and were properly performed.

NINTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff unreasonably delayed in bringing this action against Defendant and that such delay prejudiced Defendant and, therefore, this action against Defendant is barred by the doctrine of laches.

TENTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff, by reason of his own acts and/or omissions, waived any claims, if any there be, as alleged therein.

ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff, by reason of his own acts and/or omissions, is equitably estopped from asserting any claim, if any there be, as alleged therein.

TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff, by virtue of having been the sole or major contributing factor to the alleged damages of which Plaintiff now complains, based upon his own fault or misconduct, is guilty of unclean hands and therefore barred from obtaining the relief sought in the complaint by that principle, as well as by the principle of *in pari delicto*.

THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff was guilty of willful misconduct in and about the matters complained of in the complaint and that the

1 aforesaid misconduct on Plaintiff's own part proximately contributed to the damages of which
 2 he now complains.

FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

4 As a separate, distinct and affirmative defense to the complaint, and to each and every
 5 cause of action and/or claim for relief thereof, Defendant alleges that they are entitled to the
 6 benefits, defenses, rights, immunities and provisions of Assembly Bill I through XX of the State
 7 of California for the year 1975 and which is more commonly known as the Medical Injury
 8 Compensation Reform Act (MICRA); that said benefits, defenses, immunities and provisions
 9 are set forth and contained within Business and Professions Code §6146; Civil Code §§3333.1
 10 and 3333.2; Code of Civil Procedure §§364, 365 and 667.7.

FIFTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

12 As a separate, distinct and affirmative defense to the complaint, and to each and every
 13 cause of action and/or claim for relief thereof, Defendant alleges that, in the event they are
 14 found to be negligent (which supposition is denied and merely stated for the purposes of this
 15 affirmative defense), Defendant may elect to introduce evidence of any amount paid or payable,
 16 if any, as a benefit to Plaintiff pursuant to Civil Code §3333.1.

SIXTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

18 As a separate, distinct and affirmative defense to the complaint, and to each and every
 19 cause of action and/or claim for relief thereof, Defendant alleges that, in the event they are
 20 found to be negligent (which supposition is denied and merely stated for the purposes of this
 21 affirmative defense), the damages for non-economic loss, if any, shall not exceed the amount
 22 specified in Civil Code §3333.2.

SEVENTEENTH AND SEPARATE AFFIRMATIVE DEFENSE

24 As a separate, distinct and affirmative defense to the complaint, and to each and every
 25 cause of action and/or claim for relief thereof, Defendant alleges that, in the event they are
 26 found to be negligent (which supposition is denied and merely stated for the purposes of this
 27 affirmative defense), Defendant may elect to have future damages, if any, in excess of the
 28 amount specified in Code of Civil Procedure §667.7, paid in whole or in part, as specified in

1 Code of Civil Procedure §667.7.

2 **EIGHTEENTH AND SEPARATE AFFIRMATIVE DEFENSE**

3 As a separate, distinct and affirmative defense to the complaint, and to each and every
 4 cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff failed to meet and
 5 perform all necessary covenants, conditions and promises required to be performed in
 6 accordance with the terms and conditions of the treatment.

7 **NINETEENTH AND SEPARATE AFFIRMATIVE DEFENSE**

8 As a separate, distinct and affirmative defense to the complaint, and to each and every
 9 cause of action and/or claim for relief thereof, Defendant alleges that the actions of Plaintiff
 10 prevented Defendant from performing their services, and released Defendant from any duty or
 11 liability to Plaintiff. Should any breach of duty have occurred on the part of Defendant, said
 12 breach was waived by the conduct and actions of Plaintiff.

13 **TWENTIETH AND SEPARATE AFFIRMATIVE DEFENSE**

14 As a separate, distinct and affirmative defense to the complaint, and to each and every
 15 cause of action and/or claim for relief thereof, Defendant alleges that the acts and/or omissions
 16 complained of in the complaint were consented to by Plaintiff.

17 **TWENTY-FIRST AND SEPARATE AFFIRMATIVE DEFENSE**

18 As a separate, distinct and affirmative defense to the complaint, and to each and every
 19 cause of action and/or claim for relief thereof, Defendant alleges that their conduct, at all times
 20 referenced therein, was privileged and/or justified.

21 **TWENTY-SECOND AND SEPARATE AFFIRMATIVE DEFENSE**

22 As a separate, distinct and affirmative defense to the complaint, and to each and every
 23 cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff failed to (1)
 24 exhaust his administrative and/or other remedies and/or (2) satisfy other jurisdictional and/or
 25 procedural prerequisites prior to filing suit.

26 **TWENTY-THIRD AND SEPARATE AFFIRMATIVE DEFENSE**

27 As a separate, distinct and affirmative defense to the complaint, and to each and every
 28 cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff failed to comply

1 with the provisions of the California Tort Claims Act.

2 **TWENTY-FOURTH AND SEPARATE AFFIRMATIVE DEFENSE**

3 As a separate, distinct and affirmative defense to the complaint, and to each and every
 4 cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff had full
 5 knowledge that Defendant did not breach any duty and/or obligation.

6 **TWENTY-FIFTH AND SEPARATE AFFIRMATIVE DEFENSE**

7 As a separate, distinct and affirmative defense to the complaint, and to each and every
 8 cause of action and/or claim for relief thereof, Defendant alleges that, at all times therein,
 9 Defendant acted with a good faith belief in the propriety of their conduct, and performed and
 10 discharged in good faith each and every duty and/or obligation, if any, owed to Plaintiff.

11 **TWENTY-SIXTH AND SEPARATE AFFIRMATIVE DEFENSE**

12 As a separate, distinct and affirmative defense to the complaint, and to each and every
 13 cause of action and/or claim for relief thereof, Defendant alleges that any alleged duty and/or
 14 obligation of Defendant were exonerated, discharged and/or released by Plaintiff's acts and/or
 15 omissions.

16 **TWENTY-SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE**

17 As a separate, distinct and affirmative defense to the complaint, and to each and every
 18 cause of action and/or claim for relief thereof, Defendant alleges that their conduct was proper,
 19 legal and in substantial compliance with all applicable regulations, codes, statutes and/or
 20 ordinances.

21 **TWENTY-EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE**

22 As a separate, distinct and affirmative defense to the complaint, and to each and every
 23 cause of action and/or claim for relief thereof, Defendant alleges that any acts and/or omissions
 24 on the part of Defendant were discretionary and not ministerial in nature.

25 **TWENTY-NINTH AND SEPARATE AFFIRMATIVE DEFENSE**

26 As a separate, distinct and affirmative defense to the complaint, and to each and every
 27 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 28 alleges, that at all times the representations, if any, made by them to Plaintiff were, to the best of

1 their knowledge, true.

2 **THIRTIETH AND SEPARATE AFFIRMATIVE DEFENSE**

3 As a separate, distinct and affirmative defense to the complaint, and to each and every
 4 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 5 alleges, that at no time did they seek to suppress any facts and/or information that it was duty
 6 bound to disclose to Plaintiff and did not seek to disclose to Plaintiff any facts and/or
 7 information which were likely to mislead Plaintiff.

8 **THIRTY-FIRST AND SEPARATE AFFIRMATIVE DEFENSE**

9 As a separate, distinct and affirmative defense to the complaint, and to each and every
 10 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 11 alleges, that at no time did they seek to deceive Plaintiff respecting the representations, if any,
 12 made by Defendant to Plaintiff.

13 **THIRTY-SECOND AND SEPARATE AFFIRMATIVE DEFENSE**

14 As a separate, distinct and affirmative defense to the complaint, and to each and every
 15 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 16 alleges, with respect to the acts or omissions and/or other conduct complained of by Plaintiff as
 17 against Defendant, and with respect to the resulting actions taken and/or not taken by Plaintiff,
 18 there was not justifiable reliance by Plaintiff.

19 **THIRTY-THIRD AND SEPARATE AFFIRMATIVE DEFENSE**

20 As a separate, distinct and affirmative defense to the complaint, and to each and every
 21 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 22 alleges, that they had no knowledge of the alleged falsity of any representations, if any,
 23 complained of by Plaintiff.

24 **THIRTY-FOURTH AND SEPARATE AFFIRMATIVE DEFENSE**

25 As a separate, distinct and affirmative defense to the complaint, and to each and every
 26 cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon
 27 alleges, that they made no representations, expressly or impliedly, to Plaintiff upon which
 28 Plaintiff may base any cause of action.

THIRTY-FIFTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant is informed and believes, and thereon alleges, that any statements made by Defendant to Plaintiff were, either in whole or in part, matters of opinion.

THIRTY-SIXTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that any acts and/or omissions on the part of Defendant were subjectively and/or objectively reasonable so as to entitle Defendant to absolute or qualified immunity based upon applicable State or Federal law for any acts and/or omissions within the course and scope of employment.

THIRTY-SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that Plaintiff's complaint, and each and every cause of action and/or claim for relief therein, is barred by the provisions of Government Code §§ 810 through 1000, inclusive, including, but not limited to, Sections 815, 815.2, 815.3, 815.4, 815.6, 818, 818.2, 818.4, 818.6, 818.8, 820, 820.2, 820.4, 820.6, 820.8, 821, 822.2, 830.2, 830.5, 830.6, 831.2, 831.25, 835, 835.2, 835.4, 840, 840.2, 840.4, 840.6, 844.6, 845.6, 855.8, and 856.

THIRTY-EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every cause of action and/or claim for relief thereof, Defendant alleges that the complaint, and each and every cause of action and/or claim for relief thereof, is barred by the statute of limitations as stated in Part 2, Title 2, Chapter 2 of the California Code of Civil Procedure, beginning with Section 315 and continuing through Section 349.4 and, more particularly, but not limited to, Sections 335.1, 337, 337.1, 337.15, 337.2, 338, 339, 340, 340.5, 340.6, 342, and 343.

THIRTY-NINTH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and to each and every

cause of action and/or claim for relief thereof, Defendant alleges that they are entitled to recover reasonable expenses, including attorneys' fees, from Plaintiff and his counsel in that Plaintiff's complaint on file herein is frivolous and was brought and maintained in bad faith and without reasonable cause, is totally and completely without merit, and was brought for the sole purpose of harassing Defendant.

FORTIETH AND SEPARATE AFFIRMATIVE DEFENSE

As a separate, distinct and affirmative defense to the complaint, and specifically to the first cause of action and/or claim for relief thereof, Defendant alleges that they did not have actual or constructive notice of a serious and obvious need for immediate medical condition for which they allegedly failed to take reasonable action to summon medical care.

WHEREFORE, Defendant prays that Plaintiff takes nothing by way of his complaint, that Defendant has judgment for costs of suit incurred herein, together with such other and further relief as the court may deem just and proper.

DEMAND FOR JURY TRIAL

Defendant hereby demands a trial by jury in this matter.

Dated: March 5, 2008

Respectfully submitted,

ANN MILLER RAVEL
County Counsel

By: _____ /S/
ARYN PAIGE HARRIS
Deputy County Counsel

Attorneys for Defendant
COUNTY OF SANTA CLARA

116094.wpd